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## REMARKS

In the above-identified application the applicant sought an interview with the Examiner and in a phone conference with the Examiner prior to setting up an interview the applicant proposed an amendment to claim 1 to clarify the distinction in claim 1 from the prior art. The Examiner indicated that the patentability of the claim over the prior art would be considered in view of the amendment. As previously presented, claim 1 required a rounded portion to extend over a substantial portion of a face of the cube shape of the paving stone. This limitation is now defined more specifically, requiring the rounded portion to extend over at least 1/6 of the cube face. This limitation is supported in original claim 6, which corresponds to claim 7 in the corresponding PCT application.

The invention in this case as defined in claim 1 is a paving stone shape which can be laid on a flat bed with any one of the six faces up. Thus it can be laid with the rounded portion fully visible facing up or with the rounded portion as part of a vertical side face, whereby its profile is visible. Thus with just one paving stone shape, a great variety in the pattern presented by the laid paving stone is achievable, as is illustrated by the example in Figure 4. This concept for a paving stone is not taught or suggested in any of the new prior art references cited by the Examiner in the Office Action or in any of the previously cited prior art.

In the Office Action, the Examiner rejected claim 1 as well as dependent claims 5, 6, 8, 11 and 12 as being anticipated by the Scheiwiller patent. In this rejection, the Examiner contends that the Scheiwiller patent discloses a paving stone that has a cubical shape. However, there is no basis for the Examiner's contention that the paving stone in Scheiwiller is cubical. The illustrations of the paving stones in Scheiwiller in Figures 1a-

le clearly indicate that these paving stones in these figures are not in the shape of a cube. The vertical dimension of these stones is substantially shorter than the horizontal dimensions of the stones. To support his contention that a stone taught in Scheiwiller is cubical, the Examiner cites column 5, lines 25-64. However, this portion of the specification of the Scheiwiller '827 patent contains no indication that the stones being described therein are in the form of a cube. The paragraph cited by the Examiner actually describes a prior art paving stone shown in Figure 5c and describes how this paving stone in the prior art has been used to lay an unsatisfactory curved pattern. As indicated above there is nothing in the paragraph whatsoever to indicate that the paving stone being described is in the form of a cube. Accordingly, claims 1, 5, 6, 8, 11 and 12 all distinguish from Scheiwiller by requiring a paving stone approximately in the shape of a cube.

The Examiner has rejected claims 1 and 7 as being unpatentable over the patent to Streater No. 1,636,114 in view of the applicant's prior patent No. 4,572,699. The Examiner points out that the Streater patent discloses a cubical molded block, which the Examiner describes as a paving stone. The Examiner contends that it would be obvious to modify the molded block of the Streater patent to have rounded edges as shown in the Rinninger '699 patent in order to provide means to drain the surface water from the top surface of the Streater block. In the Streater patent the blocks are 12-inch foundation blocks which are used as a base over which an asphalt paving is provided for a roadway which would handle vehicle traffic. Since the stones are to be covered with asphalt, there is no need whatsoever for shaping the top surface of the blocks of Streater to provide a means to drain surface water from the top surface of the stone. Surface water would

normally not reach the top surface of the blocks in the Streater patent because of the covering asphalt layer. Moreover, the Rinninger '699 patent does not indicate that a purpose of the rounded surface of the Rinninger patent is to facilitate drainage from the top surface of the stones. The purpose described in Rinninger is to give the stones a natural appearance and to reduce the damage to the stones during laying and permit the stones to be laid in a flexible and versatile manner without interspaces occurring. See column 1, lines 44-54 of Rinninger '699. These reasons for using rounded portions do not apply to the foundation blocks of the Streater patent since the foundation blocks are out of sight, underneath the layer of asphalt. In addition, a person with ordinary skill in the art would not consider providing rounded surfaces on the faces of the Streater blocks in view of the fact the Streater blocks are 12-inch foundation blocks, which are nothing like the garden walk paving stones shown in Rinninger '699.

As amended, the claims 1 and 7 further distinguish from the combination of the Streater and the Rinninger '699 patent in that the claims call for the rounded portion to extend over at least  $1/6$  of the face of the cube. In the Rinninger '699 patent, the rounded portions are essentially only rounded edges and each rounded edge fails to extend over at least  $1/6$  of the face on which the rounded portion is formed. In order to achieve the pattern variation in the paving blocks enabled by the applicant's invention, the rounded portion needs to be more than just a rounded edge to have a significant pattern affect such as the variegated pattern shown in Figure 4 of the applicant's invention.

The Examiner has rejected claims 1, 2, 5-8 and 12 as being unpatentable over the McClintock patent No. 957,985 in view of the Rinninger '699 patent. The McClintock patent discloses paving material comprising very small cubes which are designed to be

laid as is ordinarily done with broken stone. Specifically the cubes are two inches on each side and are not designed to be laid in a carefully chosen pattern to give a variegated appearance in the laid paving stone pattern. Instead the two-inch cubes are dumped from a conveying cart on a smooth foundation surface and spread out with stone forks or potato hooks. The cubes are then raked together as closely as possible by means of the forks or rakes and finally the spaces between the cubes are filled with pitch, grout, cement, mortar or other suitable material. The resulting paving stones will have an haphazard orientation relative to one another and there is no intent in McClintock for the two-inch cubic paving material to provide an improved or an ornamental appearance. The Examiner contends that it would be obvious to provide rounded edges on the two-inch cubical blocks of the McClintock paving material in order to provide a more natural appearance to the blocks. However, the paved surface being provided in the McClintock patent is a utilitarian road surface for both automotive vehicles as well as for vehicles drawn by animals. Providing a natural appearance is of no concern in the patent and a person with ordinary skill in the art would see no need for the cubes to be modified so that they provide a more natural appearance. Moreover, considering the different type of surface and the difference in size between the paving stones of the Rinninger patent and the cubical blocks of the McClintock patent, a person with ordinary skill in the art would not consider applying the teachings of the Rinninger patent to the cubical blocks disclosed in the McClintock patent.

In addition, the haphazard method in which the cubes of McClintock are applied to the foundation surface means that the resulting cubes would have a random orientation and would in most cases be oriented without the face having the rounded corners facing

outwardly and thus defeat the purpose of achieving a natural appearance like that achieved in the Rinninger patent.

As amended, the claims further distinguish from the combination of the McClintock patent and the Rinninger '699 patent in that they call for the rounded portion to extend over at least 1/6 of the paving stone face on which the rounded portion is formed. In Rinninger '699 the rounded portions are essentially just rounded edges and do not extend over at least 1/6 of the paving stone face. Accordingly, even if the cubes in McClintock were modified to have rounded edges, as taught in the Rinninger '699 patent, the resulting paving stones would not be like those claimed in applicant's claims.

The Examiner has rejected claim 3 as being unpatentable over the McClintock patent in view of Rinninger '699 and in further view of the Scheiwiller patent No. 4,627,764. This claim distinguishes over this combination of references for the same reasons given above with respect to the rejection of claim 1 on the McClintock patent combined with the Rinninger '699 patent. The Examiner rejects claim 4 as being unpatentable over the McClintock patent in view of the Rinninger patent in further view of the patent to Rice No. No. 3,008,256. It is submitted that this claim is patentable over the combination of applied references for the same reasons given above with respect to the rejection of claim 1 on the McClintock patent in combination with Rinninger '699.

In view of the foregoing it is submitted that this application is in condition for allowance and favorable reconsideration thereof is earnestly solicited.

If the Examiner is unpersuaded as to the patentability of the claims, the Examiner is requested to telephone the applicant at the telephone number given below to arrange an interview before issuing the next Office Action.

Respectfully submitted,

10/15/02



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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE CLAIMS:**

Please amend Claim 1 as follows:

2. (Twice Amended) A molded block for a paving-stone covering, made of concrete, having approximately the shape of a cube and having substantially planar faces, at least one face of said cube having a at least one rounded portion ~~over a substantial area~~ extending toward ~~at least one~~ side edge of said cube over at least 1/6 of said at least one face.